

**TERMINAL DISCLAIMER TO OBTAIN AN OBVIOUSNESS TYPE  
DOUBLE PATENTING REJECTION OVER A PRIOR PATENT**

Docket Number (Optional)

701039-052287-RCE

In re Application of: Benowitz et al.

Application No.: 10/528,685

Filed: 7/18/2005

For: METHODS AND COMPOSITIONS FOR TREATMENT OF NEUROLOGICAL DISORDERS

The owners\*, The Children's Medical Center Corporation (Boston, MA) of 100 percent interest in the instant application, hereby disclaim, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of a patent issued for a copending application No. 10/580,364. The owners hereby agree that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent issued for the copending application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owners do not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The owners agree that any patent granted on the instant application or any patent subject to the reexamination proceeding shall be enforceable only for and during such period that said patent is commonly owned with the application or patent which formed the basis for the judicially created double patenting rejection.

Check either box 1 or 2, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.

/Shayne Y. Huff/      June 30, 2009  
Signature                      Date

Shayne Y. Huff  
Typed or printed name

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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\*Statement under 37 CF 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this statement. See MPEP § 324.